

RECEIVED

SEP 02 2005

STATE OF NEW HAMPSHIRE
WATER COUNCIL

Docket No. 03-10-WC

Appeal of the Conservation Law Foundation
In Re: Water Quality Certificate No. 2003-001

MOTION TO CONTINUE HEARING

NOW COMES the Conservation Law Foundation (CLF) and respectfully submits the following motion in the above-captioned appeal:

1. This appeal challenges a Section 401 Water Quality Certificate issued by the Department of Environmental Services (Department) for a proposed 79-lot residential subdivision in and among valuable wetlands and surface waters in Greenland.

2. On July 18, 2005, CLF filed a motion to continue the final hearing of this matter, which was then scheduled for August 10, 2005. CLF sought a continuance based on grounds that included the pendency of a threshold legal issue briefed by the parties in accordance with the prehearing order (an issue which could render a final evidentiary hearing unnecessary), as well as the pendency of a motion to compel (relative to pre-hearing discovery).

3. The Water Council granted CLF's July 18 motion, re-scheduling the final hearing for September 14, 2005.

4. The legal issues described in paragraph 2, above, still remain pending. The threshold legal issue briefed by the parties could be dispositive of this case, rendering the final hearing unnecessary. Therefore, it continues to be in the interest of judicial economy to postpone the final hearing until a decision on that threshold legal issue has been rendered. A decision relative to CLF's pending Motion to Compel also is necessary to CLF's preparation for the final hearing.

5. It is CLF's understanding that the Council may be able to accommodate this hearing on October 12, 2005.

WHEREFORE, CLF respectfully requests that the Council re-schedule the final hearing of this appeal to October 12, 2005, or to such further date as is necessary to allow for the resolution of the pending legal issues.

Respectfully submitted,

Conservation Law Foundation

By:

COPY

Thomas F. Irwin, Esq.
27 North Main Street
Concord, NH 03301
(603) 225-3060

Date: September 2, 2005

CERTIFICATE OF SERVICE

A copy of this pleading has this day been forwarded via facsimile and U.S. Mail to Jennifer J. Patterson, Esq., and Malcolm R. McNeill, Jr., Esq.

COPY

Thomas F. Irwin